

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:

**ROBERT L. HAWKINS
SHIRLEY A. HAWKINS**

**CASE NO. 13-05835-8-JNC
CHAPTER 13**

DEBTORS.

MOTION TO MODIFY PLAN

NOW COMES Joseph A. Bledsoe, III, the duly appointed and acting chapter 13 trustee (hereinafter “trustee”) in this matter, and hereby moves the Court to enter an Order modifying the terms of the debtors’ confirmed chapter 13 Plan, as indicated herein below. In support of this Motion, the Trustee respectfully shows unto the Court the following:

1. The above-referenced debtors filed a Voluntary Petition under chapter 13 of the United States Bankruptcy Code on September 16, 2013.

2. On or about March 27, 2014, the trustee filed his Minutes of 341 Meeting and Motion for Confirmation of Plan (“MFCP”), and on April 29, 2014, this court entered an Order allowing the MFCP. The Plan was modified by an Order of this Court entered on November 17, 2017, and now provides that the debtors shall make payments of \$1,420.00 per month for 46 months, followed by \$1,870.00 per month for 11 months (total base plan of \$85,890.00).

3. Upon information and belief, the debtors’ financial circumstances forced them to make several partial monthly Plan payments, and also prevented them from making all payments to the trustee in a timely manner. Upon information and belief, this inability of the debtors to consistently make full and timely payments was the result of substantial and unanticipated changes in the debtors’ financial circumstances.

4. Because of the debtors' inability to consistently make full and timely Plan payments, additional conduit mortgage payments came due under the Plan, such that a modification of the Plan is now necessary.

5. Other than certain conduit mortgage payments, the only claims on which there remain an unpaid balance due under the Plan are the following:

<u>Claimant</u>	<u>Status</u>	<u>Amount Due</u>
Cedric R. Perry, Esquire	Administrative	\$250.00
Edgecombe County Tax Office	Priority	\$219.52
NC Department of Revenue	Priority	\$66.64

6. In order to pay additional conduit mortgage payments, and to pay the claims listed in paragraph 5, above, the trustee proposes that the debtors' "base" plan be increased from \$85,890.00 to \$94,168.00. From the additional "base" proceeds, the trustee requests authority to pay all remaining priority claims first, and then to apply any remaining proceeds to accumulated conduit mortgage payments, with all payments being subject to the customary trustee's commissions and expenses.

7. The proposed Plan meets the requirements of 11 U.S.C. § 1329(b)(1).

WHEREFORE, the trustee prays the Court to enter an Order modifying the debtors' Plan base and allowing for the payment of claims as set forth in paragraph 6, above, and for such additional relief as the Court deems appropriate. In the alternative, the trustee requests a hearing.

Date: December 27, 2019

/s/Joseph A. Bledsoe, III
 Joseph A. Bledsoe, III
 Chapter 13 Trustee
 P.O. Box 1618
 New Bern, NC 28563-1618
 (252) 633-0074
 NC State Bar No.: 19817

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CASE NO. 13-05835-8-JNC
CHAPTER 13

DEBTORS.

NOTICE OF MOTION MODIFY CHAPTER 13 PLAN

The chapter 13 trustee has filed papers with the Court requesting that the terms of the debtors' confirmed chapter 13 Plan be amended.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the trustee's motion, or if you want the court to consider your views on the motion, then on or before **1/21/2020**, unless otherwise ordered, you or your attorney must file with the Court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: **Clerk, U.S. Bankruptcy Court, P.O. Box 791, Raleigh, NC 27602.**

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. You must also serve a copy of your response on: **Joseph A. Bledsoe, III, Chapter 13 Trustee, P.O. Box 1618, New Bern, NC 28563-1618.**

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the objection at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: December 27, 2019

/s/Joseph A. Bledsoe, III
Joseph A. Bledsoe, III
Chapter 13 Trustee
P.O. Box 1618
New Bern, NC 28563-1618
(252) 633-0074
NC State Bar No.: 19817

CERTIFICATE OF SERVICE

I, Joseph A. Bledsoe, III, Chapter 13 Trustee, do hereby certify that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on the date indicated herein below, I served copies of the foregoing MOTION TO MODIFY PLAN and NOTICE OF MOTION TO MODIFY PLAN by depositing a copy of the same in a postage-paid envelope with the United States Postal Service or by electronic means, as indicated.

Cedric R. Perry
Attorney for Debtors

(via CM/ECF)

Robert L. Hawkins
Shirley A. Hawkins
950 Tarboro Street
Rocky Mount, NC 27801

(via first-class mail)

U.S. Bank Trust
c/o SN Servicing Corp.
Attn: Office/Manager/Director
323 5th Street
Eureka, CA 95501

(via certified & first-class mail)

Henderson, Nystrom, Fletcher & Tydings, PLLC
Attorneys at Law
831 E. Morehead Street, Ste. 255
Charlotte, NC 28202

(via first-class mail)

I further certify that service of on other creditors in this matter is not required pursuant to Section 2002-1(c) of the Administrative Guide to Practice and Procedure of the United States Bankruptcy Court for the Eastern District of North Carolina, as the proposed modification will have no adverse effect on any other creditor in this matter.

DATED: December 27, 2019

/s/ Joseph A. Bledsoe, III
Joseph A. Bledsoe, III